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DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0024]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Virginia Tech Transportation Institute (VTTI)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application for exemption from VTTI to allow the placement of camera-based data acquisition systems (DAS) at the bottom of windshields on commercial motor vehicles (CMVs). The Federal Motor Carrier Safety Regulations (FMCSRs) currently require antennas, transponders, and similar devices to be located not more than 6 inches below the upper edge of the windshield, outside the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. VTTI is coordinating device development and installation of the DASs for a National Highway Traffic Safety Administration (NHTSA) research program in up to 150 CMVs. The exemption would enable VTTI and NHTSA to conduct research on the reliability of collision avoidance systems for CMVs. VTTI believes that mounting the DASs at the bottom of the windshield would maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

DATES: Comments must be received on or before [INSERT 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2015-0024 using any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the instructions for submitting comments on the Federal electronic docket site.

- Fax: 1–202–493–2251.

- Mail: Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

- Hand Delivery: Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday-Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the “Public Participation” heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the “Privacy Act” heading for further information.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12–140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 USC 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to

www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Public participation: The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the “help” section of the <http://www.regulations.gov> Web site as well as the DOT’s <http://docketsinfo.dot.gov> Web site. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Huntley, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366- 4235, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (TEA– 21) [Pub. L. 105–178, June 9, 1998, 112 Stat. 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). On August 20, 2004, FMCSA published a final rule (69 FR 51589) implementing section 4007. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with an opportunity to inspect the information relevant to the

application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 2 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

VTTI's Application for Exemption

VTTI has applied for an exemption from 49 CFR 393.60(e)(1) to allow the installation of DASs at the bottom of the windshield on CMVs. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted at the top of the windshield. Antennas, transponders and similar devices (devices) must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs and signals.

VTTI has applied for the exemption because it wants to install DASs in up to 150 CMVs operating throughout the United States in support of research being conducted on behalf of NHTSA. VTTI contends that it must be able to mount the DASs lower than allowed under 49 CFR 393.60(e)(1) “because the safety equipment must have a clear forward facing view of the road, and low enough to accurately scan facial features for detection of impaired driving.” VTTI’s mounting preference for the DASs and necessary mounting brackets is at the bottom of the windshield, and is best suited for mounting within and/or below 3 inches of the bottom of the windshield wiper sweep, and out of the driver’s sightlines to the road and highway signs and signals, to the extent practicable.

FMCSA Grant of Waiver to VTTI

Pursuant to 49 U.S.C. 31315(a) and 49 CFR part 381, subpart B, the FMCSA granted VTTI a 90-day waiver on January 26, 2015 to allow the placement of the DASs at the bottom of windshields on CMVs, outside of the area permitted by section 393.60 of the FMCSRs. This waiver is effective from January 26, 2015, through April 25, 2015. Up to 150 DASs will be installed and the affected motor carriers are listed as below:

1. USDOT # 32052 Crosby Trucking Service Inc. in Mount Sydney VA
2. USDOT # 369138 Rush Trucking Corporation in Wayne Michigan
3. USDOT # 1977980 Kuperus Trucking Inc. in Jenison MI
4. USDOT # 282628 Stagecoach Cartage and Distribution, LP in El Paso TX
5. USDOT # 184405 J & M Tank Lines Inc. in Birmingham AL
6. USDOT # 1243338 P&S Transportation LLC in Ensley AL
7. USDOT # 75827 Modular Transport Company in Wyoming MI

During the waiver period, these motor carriers participating in the NHTSA research program must ensure that the DASs are mounted within three inches of the bottom of the driver side windshield wiper sweep, and out of the driver's sightlines to the road and highway signs and signals as much as practicable. Vehicles participating in the study must carry a copy of this waiver in the vehicle.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on VTTI's application for an exemption from 49 CFR 393.60(e)(1). All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the "Addresses" section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: February 9, 2015.

Larry W. Minor,
Associate Administrator for Policy.

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